

***Philip Morris Limited Comments on the Consultation of the
Draft Smoking (Northern Ireland) Order 2006
18 April 2006***

Philip Morris Limited (PML)¹ welcomes this opportunity to provide comments to the Department of Health Social Services and Public Safety on the consultation of the Draft Smoking (Northern Ireland) Order 2006.

Governments and public health officials have concluded that second-hand smoke causes disease in non-smokers. The public should be guided by these conclusions in deciding whether to be in places where second-hand smoke is present, or if they are smokers, when and where to smoke around others. Particular care should be exercised where children are concerned, and adults should not smoke around them.

PML believes that the conclusions of public health authorities are sufficient to warrant measures that regulate smoking in public places. Clearly smoking should be prohibited in hospitals and health institutions and in schools and other facilities for youth. In addition, smoking should be prohibited in public places where people must go such as in public transportation vehicles and businesses offering general public services such as supermarkets, banks, and post offices. In such places, signs should be posted, clearly stating that smoking is not permitted. Thus we support the Government's approach to address secondhand smoke in these places.

However, while public smoking should be restricted, a balance can be struck between the desire to protect non-smokers from exposure to second hand smoke and allowing the millions of people who smoke to do so in some public places, such as in restaurants, nightclubs and bars.

In restaurants, bars, pubs, cafes, night clubs and other entertainment establishments, proprietors should be free to decide whether to permit, restrict or prohibit, including whether to provide for separate smoking areas or to prohibit smoking in certain areas (for example, around the bar). If signage is posted communicating the smoking policy and includes the public health view that exposure to smoke is harmful to non-smokers, then an individual can make an informed decision about whether they enter that establishment or not.

In the workplace, such as private businesses, employers should be allowed to determine the smoking policy, although the right of non-smokers to work in a non-smoking environment should be protected. To accomplish this, specific areas can be designated as smoking areas, such as smoking lounges.

¹ Philip Morris Limited is the United Kingdom affiliate of Philip Morris International Management S.A.. (www.philipmorrisinternational.com). PML is not a member of the UK Tobacco Manufacturers' Association.

While the Draft Order precludes exemptions in respect of licensed premises, we do not believe that a total prohibition on smoking in all licensed premises is necessary or justified. We believe the issue can be addressed more pragmatically as outlined above.

Article 4: Exemptions

Tobacco product research and development

The Draft Order would ban smoking in the workplace. We believe that any law that prohibits smoking in the workplace should exempt specific facilities owned by tobacco companies or entities working on their behalf for the purpose of permitting the evaluation and/or testing of tobacco products, including product development and scientific research. An exemption, for instance, is already contained in the legislation which regulates the introduction of the workplace smoking ban in Scotland. (*The Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006: SI 2006 No. 90*)

Developing new tobacco product brands, modifying existing brands and assessing competitors' brands are essential components of a tobacco business. Adult smokers need to be able to evaluate new, different or competitive tobacco blends or tobacco products. It is also necessary for tobacco companies or consumer research companies that work for them to get input from adult smokers about their taste preferences and perceptions of different cigarette brands.

A tobacco company, or a marketing research company working on its behalf, should therefore be allowed to permit smoking indoors for the purpose of evaluating and testing tobacco products in designated areas/rooms.

In addition to consumer research, scientific research involving tobacco products is important. Scientific research organisations need to be able to conduct appropriate clinical research with informed adult smokers who agree to participate in those evaluations – for example, to gain understanding of how varying smoker behaviours may affect smokers' exposure to smoke constituents. In such cases, a controlled indoor environment is necessary for an objective evaluation.

We therefore recommend that legislative proposals to prohibit workplace smoking prohibitions should allow limited, carefully defined exemptions to tobacco companies, consumer research agencies working on their behalf, and independent research organisations conducting scientific research.

Article 14: Sale of tobacco, etc. to minors

We consider it appropriate for governments and the public health community to take measures to prevent minors from smoking. Smoking should be a choice available only to adults and regulation should include measures to prevent youth access to tobacco products as part of a comprehensive framework to reduce the harm caused by tobacco.

Minors should not smoke. To help ensure they do not, we advocate a raise in the minimum age for sales of tobacco products from 16 to 18 years old. However, a minimum age law will only be effective if it is vigorously enforced. Retailers should always check for proof of age. Retailers must understand that failure to follow the law

will result in meaningful penalties, including the loss of the right to sell tobacco products in the event of repeated violations.

A licensing system applied to all retailers would help enforce the law. Under such a system, a retailer that violated the minimum age law should be subject to a significant fine and, on repeated violations, lose its licence to sell tobacco products.

In addition, the law should make the purchase and use of tobacco products by minors unlawful. A cultural change is required on two fronts. Firstly, underage persons should understand that if they smoke or use other tobacco products that they are engaging in unlawful activity. Secondly, young persons should expect to automatically provide proof of age when requesting purchase of tobacco from retailers.

Laws alone are not enough. Youth smoking is a complex problem that requires concerted, comprehensive efforts to solve. Clearly, the Department should continue to educate minors about the serious health effects of tobacco use. We believe education for underage persons is a fundamental component of youth smoking prevention, and various stakeholders can take part in it (parents, teachers, doctors, and public health officials). Access prevention, education, and other efforts should be used in conjunction to create an environment in which minors do not want and cannot smoke. Achieving that requires a concerted effort of *all* stakeholders involved, including parents, teachers, doctors, other educators and people that influence children's behaviour, as well as the government and the industry.

We are committed to doing our part. Philip Morris International and its affiliates support youth smoking prevention programmes in many countries where our products are sold. Our priority focus is on retail access prevention programmes designed to encourage retailers to strictly comply with minimum age laws and impress upon their customers and consumers that cigarettes should not be sold to minors.

In Northern Ireland, Philip Morris Limited, along with other tobacco manufacturers and CitizenCard, support the *No ID No Sale* programme that is aimed at raising awareness of the minimum age law for tobacco sale currently in force, encourage retailers to ask for identification for customers appearing to be underage and raise awareness with the public that retailers will ask for identification if a customer appears underage. The information pack delivered by tobacco companies to the tobacco retailers includes a sticker for the shop door, a register to record sales refusals, information about the existing law and identification card application forms. We will continue to work with the industry and CitizenCard to increase efforts to address youth smoking prevention. We would welcome regulation that incorporates this, or a similar scheme, into legislation.

Impact on business

PML supports a lead-in and implementation time for public smoking restrictions that enables business owners to make appropriate adjustments to their business and operations with the minimum adverse affect to their business, and providing adequate time for consumer education. We urge the Department to consider the recommendations of members of the hospitality industry and other business owners on the implementation of the proposals.

In summary, PML supports restrictions on public smoking regulation in workplaces and licensed premises that gives business owners the flexibility to accommodate smokers and non-smokers and protect its employees in a way that is appropriate for their business. We also support a raise in the minimum age for sales of tobacco products to 18 years old.

We hope these comments will prove a useful starting point in an on-going dialogue.